

Amendments to the Drawings

Please replace the drawings filed June 27, 2003, with the attached formal drawings. The attached formal drawings are believed identical in all respects to the originally filed drawings, except that elements in some of the drawings are better illustrated. No new matter is presented herein. Approval of the substitute drawings is respectfully requested.

REMARKS

To summarize, Claims 14, 15, 40, 45 and 49 have been amended for clarification purposes. Claims 14-49 remain pending.

The attached substitute formal drawings more clearly illustrate the invention as shown, for example, in the battery packs and charger units shown in Figures 8B-10. Further, the suction hoses in Figures 11 and 12 are more clearly defined. No new matter has been added. Approval of the substitute drawings is respectfully requested.

In the Office Action, Claim 49 is rejected under 35 USC §112, second paragraph, as being indefinite. Claim 49 has been amended to depend from Claim 41, which recites a "receiver". Thus, Claim 49 is believed definite and withdrawal of the rejection is respectfully requested.

In the Office Action, Claims 14, 15, 23, 24, 31-35 and 38 stand rejected under 35 USC §103 as being unpatentable over Sakurai, U.S. Patent Pub. 2002/0156466 in view of Dustin, U.S. Patent No. 6 853 308 and further in view of Wang, U.S. Patent No. 6 646 541.

Sakurai discloses a surgical system having wireless remote controllers 9a, 9b mounted to respective cables of each controllable surgical device 7, 8 for selecting a surgical device for operation by a footswitch unit 4. The remote controllers 9a, 9b shown in Figure 1 transmit signals having a unique controller specific identification signal to a footswitch controller 5. The footswitch controller 5 receives footswitch control signals from footswitch unit 4 and controls the respective surgical devices 7, 8 corresponding to the operated remote controller 9a, 9b. Thus, the remote controllers 9a, 9b of Sakurai that are mounted on the surgical device cables only operate to enable/disable control of the respective device by footswitch unit 4.

Paragraph [0036] of Sakurai discloses pressing the pedal A of the footswitch unit 4 to provide ultrasonic vibrations from the scissors hand piece 7. Further, paragraphs [0037]

and [0039] state that when pedal B of the footswitch unit 4 is pressed, an operation signal is transmitted to the electric cautery apparatus 3 to output energy to the electrode 8e.

Paragraph [0048] of Sakurai discloses that setting data indicating the correspondence between remote controllers and treating tools, and setting data defining operations to be performed when the pedals A and B of the footswitch unit 4 are pressed, are input by operating the setting key 28a and are stored in memory 33 of the footswitch controller. Thus, an operator must manually set up the various operating characteristics for the treating tools to be operated.

In Figure 9, the remote controllers 9a, 9b send selection signals to a receiver 24 in the footswitch unit. The footswitch unit 51 then provides control signals over wires to an ultrasonic generator and an electrocautery apparatus, respectively.

In conclusion, remote controllers 9a, 9b mounted on the cables 11, 15 of the surgical devices 7, 8 of Sakurai are utilized to select the device to be controlled, while the separate footswitch unit 4 merely actuates or operates the surgical devices and does not allow selection of a surgical device.

Dustin discloses a multi-sided remote control device for controlling a plurality of devices, such as a TV, VCR, DVD player, set-top box and a stereo receiver. The same buttons may be utilized to control different devices depending on the device selected in an operating menu. Thus, selection and control of the devices is disclosed. The remote control device of Dustin is a hand-held device with button groups on the first and second sides thereof.

The Office Action relies on Dustin for modifying the system disclosed by Sakurai to include a separate selection control on the footswitch unit 4 to allow the operator to select a particular medical device to be controlled from among a plurality of medical devices.

Dustin is specifically directed to a hand-held device. With button groups on both sides of the remote control device, the Dustin device is incapable of functioning as a foot switch. Further, Dustin is not related to controlling the operation of medical devices. Thus there is no motivation to modify the footswitch unit of Sakurai in view of the hand-held remote control device of Sakurai.

Moreover, Sakurai specifically discloses providing separate remote controllers 9a, 9b for each of the surgical devices to be controlled. The selection devices are located on the cables of the respective surgical devices. Thus, Sakurai discloses the use of remote control selection devices in a surgical system, but chooses not to combine such remote controllers used for selection purposes with the separate footswitch 4 disclosed therein for controlling the selected devices. Therefore, Sakurai teaches away from the claimed invention.

For the above reasons, there is no motivation to combine Dustin with Sakurai to obtain the claimed invention.

The Office Action further states that providing a separate selection control on the control console of Sakurai would reduce costs by using the same device control buttons if there are a large number of medical devices in the system. Applicants believe this reduction of buttons does not provide motivation for the use of a separate selection control on the footswitch of Sakurai. Sakurai already purposely has decided to provide a separate remote control button near each medical device for providing a signal to a controller separate from the footswitch, or as shown in Figure 9, a controller within the footswitch. Therefore, in either arrangement, Sakurai provides a clear delineation between the individual device select switches provided with or near the individual surgical devices and the footswitch 4, 51 for controlling the output of the selected surgical device.

Wang discloses a general purpose operating room control system for controlling a plurality of medical devices. The

system relies on a controller with a voice control interface for determining device selection and device control commands and providing the control commands to control a selected device, such as an electrocautery device or a robotic arm. Wang discloses the controller controlling the devices by wired electrical communication or by wireless communication.

Wang also discloses a system additionally employing a foot pedal, a hand held device or other device for controlling a medical device. More specifically, as set forth at column 10, lines 12-21 of Wang, the voice control interface selects a certain device to be controlled, and "once selected the device may be controlled via one of the well-known controllers", which includes the foot controller. Thus, the foot controller disclosed in Wang merely operates to control a selected device and thus generally corresponds to the footswitch 4, 51 illustrated in Sakurai.

The voice device selection arrangement of Wang corresponds to the remote controller 9a, 9b of Sakurai located away from the footswitch. Thus, modifying the footswitch of Sakurai in view of Wang may result in the electrical connections shown in Figure 1 and Figure 9 of Sakurai, represented by outputs 2, 3, being replaced with a wireless arrangement. The resulting system, however, would not be capable of choosing device selection signals with the footswitch.

As discussed above, there is no motivation to modify the footswitch 4, 51 of Sakurai to provide both device selection and device control signals in view of Dustin, much less then further modifying the footswitch unit 4, 51 in view of Wang to choose wireless device selection signals with the footswitch in place of the separate device selection remote controllers of Sakurai or the voice interface of Wang.

Claim 14 recites a foot-operated control console having a plurality of controls for operation by a foot of an operator including "a selection control to allow the operator to select a medical device" and "a separate device control for manually

operating the selected device". As discussed above, in Sakurai device selection or enablement is provided by remote controllers 9a, 9b that are separate from the footswitch 4, 51. Thus, neither the remote controllers 9a, 9b nor the footswitch of Sakurai have both a selection control and a separate device control.

As discussed above, Dustin is directed to a remote control device for an entertainment system, such as a television, DVD player, etc. There is no disclosure of providing the remote control device of Dustin in a foot switch type of arrangement, as Dustin is directed to providing a hand-held remote control device with buttons on both the first and second sides thereof. Finally, as also discussed above, Wang is directed to providing a foot switch only for the purpose of controlling a device selected by a voice control interface.

Claim 14 also recites "a wireless transmitter to transmit over a wireless medium a selection signal responsive to operation of the selection control and a device control signal responsive to operation of the device control". As discussed above, Sakurai does not utilize wireless transmission from the footswitch unit 4, 51. Dustin discloses providing both device selection and device control signals for an entertainment system, with a hand-held wireless remote control device having button groups on both sides thereof. There is no disclosure of using the Dustin device as a foot switch, much less with a medical device. Moreover, the remote control device of Dustin under no circumstances could function as a foot switch, much less the equivalent thereof, since Dustin is clearly limited to a hand control device as buttons are provided on both sides thereof. Finally, as discussed above, Wang provides a foot switch with a wireless transmitter only to provide device control signals, and not device selection signals, as discussed above.

For the above reasons, there is no motivation to combine Dustin and Wang with Sakurai to obtain the claimed invention.

Dependent Claims 15, 23 and 24 are believed allowable for the reasons set forth above with respect to Claim 14.

Independent Claim 31 is also believed allowable over Sakurai in view of Dustin and Wang, as there is no motivation to combine the three references for the reasons discussed above with respect to Claim 14.

Further, Claim 31 recites a system for controlling a plurality of medical devices including "a wireless foot-operated control console including at least one selection control switch for manually selecting the medical device to be controlled and at least one control pedal for manually controlling the selected medical device, the foot-operated control console including a wireless transmitter for wirelessly transmitting a medical device selection signal" and for "wirelessly transmitting medical device control signals provided by the control pedal".

As discussed above, Sakurai only discloses two foot pedals A, B for providing variable control signals that control surgical devices. As discussed above, Wang only discloses a footswitch 4 providing control signals to control voice selected devices. Finally, Dustin does not include or suggest the modification of a foot pedal, as the control device of Dustin is limited to a hand held remote control device having buttons on both sides thereof that provide on/off or yes/no outputs.

For the above reasons independent Claim 31, along with Claims 32-35 and 38 dependent therefrom, are believed allowable.

The rejection of Claims 16 and 22 under 35 USC §103 as being unpatentable over Sakurai in view of King and Dustin, and further in view of Stephens, U.S. Patent No. 5 734 254 has been considered.

It is noted that King was not applied in the rejection of Claims 14 and 15, from which Claims 16 and 22 depend. Instead, Wang was applied to reject the claims. Since Wang is not applied in the rejection of Claims 16 and 22, Claims 16

and 22 are believed allowable as the features recited in Claims 14 and 15 that are stated to be set forth in Wang are not provided in the references applied to reject Claims 16 and 22. Therefore, reconsideration and allowance of Claims 16 and 22 is respectfully requested.

Claims 17-19 stand rejected under 35 USC §103 as being unpatentable over Sakurai in view of King, Dustin and Stephens, and further in view of Snyder, U.S. Patent No. 6 043 626.

As discussed above, Wang was applied to reject Claims 14 and 15, and is not applied in the rejection of dependent Claims 17-19. Thus, Claims 17-19 are believed allowable as the features of Wang relied upon in the rejection of Claims 14 and 15 are not believed present in the references applied to reject Claims 17-19.

Moreover, Snyder discloses an auxiliary battery holder with multi-charger functionality that receives a portable electronic device, which is shown as a telephone holder 15 that can be attached to a belt of a user with clip 45. The charger arrangement includes a direct charger connection between an auxiliary battery 40 and a main battery 25.

Claim 17 recites a charging station including "a receptacle to receive the foot-operated control console". Further, Claim 17 recites "an induction coil coupled to a power supply for charging the battery in the foot-operated control console inductively when the foot-operated control console is disposed in the receptacle". This arrangement differs entirely from the direct electrical connection disclosed in Snyder. Further, the charging device of Stephens is not contemplated for use with a receptacle. Modifying Sakurai and Stephens in view of Snyder is believed improper as a secondary reference (Stephens) is further being modified in an attempt to obtain the claimed invention.

For the above reasons Claim 17, and Claims 18 and 19 dependent therefrom, are believed allowable over the applied prior art.

Claim 20 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Right, U.S. Patent No. 4 513 284 and Yaroch, U.S. Patent No. 5 790 065.

As discussed above, Wang was applied to reject Claims 14 and 15. Due to the omission of Wang from the rejection of Claim 20, the claim is believed allowable as Dustin, King, Right and Yaroch do not disclose the limitations recited in Claims 14 and 15 for which the rejection relies on the teachings of Wang.

Moreover, Claim 20 recites a plurality of foot-operated control consoles and that "each said control console includes a unique console identifier". Sakurai discloses a single footswitch 4, 51 with a wired connection to a controller. Thus, a unique console identifier would have no function in the wired Sakurai arrangement.

Right discloses a console priority control arrangement wherein a plurality of wired control consoles each have a relative priority, and priority wiring is provided by a pair of wires from one console to the next. Thus, the console with the highest priority is enabled and all other consoles are disabled. Right does not disclose a "unique console identifier", but instead simply a priority value not necessarily readily identifiable with a specific console. Thus, even if one of ordinary skill would substitute the priority control of Right for the arrangement of Sakurai, Dustin and King, which Applicants' disagree with, the claimed "unique console identifier", is not believed present in the applied prior art.

Further, the foot-operated control console of Right does not appear to include a "wireless transmitter" as recited in Applicants' Claim 15. Therefore Claim 15 is believed to further distinguish the prior art.

Yaroch discloses a remote control for vehicular audio systems. This arrangement is not believed relevant to Applicants' claimed surgical control system. Yaroch discloses

the concept of uniquely coded RF control signals for controlling audio system parameters of a car stereo, along with a separate car lock controller. Each controller only controls one device.

The system of Yaroch includes an audio remote transmitter 27 for modifying audio system parameters and an infrared remote control transmitter 17, which is a separate controller as shown in Figure 1.

Column 3, lines 38-50 of Yaroch discloses providing two remote transmitters that are identifiable at the receiver location. The remote transmitters, however, have two entirely different purposes. More importantly, one remote controller simply controls a stereo system and another controller controls a vehicle lock system. Thus, it is unclear how the remote control system of Yaroch is relevant to Applicants' claimed invention of providing controllers for selecting and controlling one of a plurality of medical devices during a medical procedure.

Finally, even if Yaroch were combined with Right and the above listed prior art, such a combination is believed improper as Yaroch is further modifying the controller as modified by Dustin and Right. Such repeated modifications of the same device are an attempt to obtain Applicants' claimed controller functions and properties by piecemeal selection of references from different arts, such as entertainment controls and vehicle controls and combining same.

For the above reasons, Claim 20 is believed allowable over the applied prior art.

Claim 21 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of King, Dustin, Stephens and Snyder as applied to Claims 14-18 and further in view of Philipsson, U.S. Patent Pub. 2001/0007815.

Claim 21 is believed allowable for the reasons set forth above with respect to Claims 14-18. Further, Claim 21 is believed allowable as the features of Wang provided in the

rejection of Claim 14 are necessary for the rejection of dependent Claim 21.

Claim 25 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Yaroch.

As discussed above, Claim 25 is believed allowable since the applied prior art lacks the features of Wang that were considered to be required in the rejection of Claims 14 and 15.

Moreover, Claim 25 recites that "the wireless transmitter is configured to transmit an apparatus identifier in association with the selection signal, the apparatus identifier for associating the foot-operated control console at the receiver unit".

As discussed above, Yaroch discloses a vehicle transmitter arrangement wherein a first transmitter provides audio control signals to the vehicle audio system and a second transmitter with a different identifier code is provided specifically for controlling door locks and the like. As discussed above, there is no motivation to utilize the plural transmitters of the vehicle of Yaroch as a teaching to provide an apparatus identifier for each wireless transmitter for a system wherein foot switches can selectively control a plurality of medical devices.

Moreover, each transmitter of Yaroch is directed to a specific vehicle system, whereas Applicants' wireless transmitters are configured to select among a plurality of medical devices and different transmitters are capable of selecting the same medical device. Thus Yaroch, which provides two RF transmitters for controlling two different device systems in a vehicle, does not teach the arrangement recited in Claim 25.

For the above reasons, Claim 25 is believed allowable over the prior art of record.

In the Office Action, Claim 26 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin

and King, and further in view of Linhares, U.S. Patent No. 5 336 218.

As discussed above, Wang is not applied to the rejection of Claim 26. Thus, Claim 26 is believed allowable as in the Office Action, Wang was considered necessary for the rejection of Claim 14.

Linhares discloses a surgical smoke evacuator synchronizing system having a suction hose 28 provided with a fluid canister 24 that is attached or mounted to a smoke evacuator housing 30.

The Office Action relies on column 3, lines 27-45 of Linhares for teaching a surgical system with a suction hose attachment that allows a surgical system to be used with different pieces of equipment. In Figure 1, Linhares discloses a separate surgical laser system 10 having a power supply and a control panel 14. A monitoring system 50 interconnects the laser 10 and smoke evacuator 22. There is, however, no disclosure or suggestion of the laser 10 of Linhares having a suction hose 28 attached thereto, much less a "foot-operated" control console having an attachment to allow a suction hose to be attached to the housing thereof. Therefore, even if Linhares were combined with Sakurai, which Applicants disagree with, the combined references would not result in the claimed invention.

For the above reasons, Claim 26 is believed allowable over Sakurai in view of Dustin and King, and further in view of Linhares.

Claim 36 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Wang. Claim 36 is believed allowable for the reasons set forth above with respect to Claim 31.

Claims 27, 29, 40-42, 44, 45, 48 and 49 stand rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and Wang.

There is believed to be no motivation to combine select features of Dustin and Wang with Sakurai for the reasons discussed above with respect to Claims 14 and 15.

Independent Claim 27 recites an apparatus for controlling a plurality of medical devices including a housing designed to be situated on a floor surface, and a "plurality of controls including a plurality of foot pedals and a plurality of foot switches, the plurality of foot switches including a selection switch for selecting a medical device to be controlled from among the plurality of medical devices". Claim 27 further recites "a wireless transmitter within the housing" to transmit "a device selection signal to cause a remote receiver unit to select the device to be controlled" and "to transmit control signals to cause the remote receiver unit to control the selected medical device".

Sakurai discloses footswitch unit 51 having a pair of pedals A, B for controlling different surgical devices. There is no disclosure of providing a selection switch with the footswitch unit 4, 51 of Sakurai. As discussed above, Dustin does not disclose or suggest a foot switch unit, much less a foot switch unit for controlling medical devices. As also discussed above, Wang discloses providing a foot switch for controlling surgical tools. Wang does not disclose that the foot switch also selects a tool to be controlled. Such device selection is done by the voice controlled interface of Wang.

In view of the above, there is no teaching in the applied prior art of providing an apparatus with a housing including a plurality of foot pedals and a plurality of foot switches, much less in combination with a wireless transmitter to transmit signals.

Further, and as discussed above, Dustin does not teach providing device selection buttons and function buttons for a foot switch, much less foot switches to control medical devices. Dustin is directed to control of televisions and video devices, and includes push selection buttons on both sides of the remote controller. Thus, the remote controller

of Dustin would not be capable of use as a foot switch under any conditions. Therefore, there would have been no motivation to add device select switches to the footswitch unit of Sakurai in view of Dustin. Further, Sakurai teaches away from footswitch device selection switches by providing separate remote control devices at different locations away from the footswitch 4, 51 for selecting control of different tools.

For the above reasons Claim 27, and Claim 29 dependent therefrom, are believed allowable.

Applicants' independent Claim 40 is believed allowable in view of the lack of motivation to combine Sakurai, Dustin and Wang as discussed above with respect to Claim 14.

Moreover, Claim 40 recites a plurality of controls for operation by a foot of an operator "including a selection control for manual selection of a medical device to be controlled and a separate device control for manually operating the selected medical device". As discussed above, Sakurai does not disclose a selection control on a footswitch, and Wang only discloses control signals provided by a foot switch. Further, Dustin discloses a remote controller for a vehicle that is hand-held, and thus is not related to a foot-operated control console, much less a control console for controlling medical devices.

Claim 40 further recites "a wireless transmitter disposed in said housing" and "a wireless receiver disposed in said housing for receiving wireless signals from another device and providing the wireless signals to said controller". A wireless transmitter, in combination with a wireless receiver, is not believed taught in the applied prior art. Sakurai discloses sending selection signals from controllers 9a, 9b to the wireless receiver of a footswitch unit 51. The presence of the receiver for selection signals of Sakurai, if considered a part of the invention defined by the rejection, would negate the necessity of providing a selection control

footswitch for medical devices on the foot-operated control console, as such a selection control would be redundant.

For the above reasons Claim 40, and Claims 41, 42, 44, 45, 48 and 49 dependent therefrom, are believed allowable.

Further, Claim 44 depends from Claim 43 which was not rejected based on the above references. Therefore Claim 44, and Claim 45 dependent therefrom, are believed allowable. Moreover, Claim 44 recites that the "receiver unit synchronizes with said foot-operated control console". As best understood, a synchronization feature is not present in the applied prior art.

Claim 45 recites that "said receiver unit comprises a sync button and wherein the plurality of controls includes at least two switches, wherein simultaneous actuation of said sync button and said at least two switches synchronizes said console with said receiver unit". This structure is not believed present in the applied prior art.

Claim 47 is discussed at pages 19-20 of the Office Action. Thus, it appears that Claim 47 is intended to be rejected in view of Sakurai, Dustin and Wang, even though Claim 47 is not listed in section 14 at page 15 of the Office Action. Claim 47 is believed allowable for the reasons set forth above with respect to Claim 40.

Claim 49 recites that the receiver for receiving wireless signals from another device "receives information for modifying parameters or settings of the foot-operated control console from a transmitter unit disposed in the receiver unit that is separate from the foot-operated control console". Thus, a separate device is provided for modifying parameters or settings of the foot-operated control console. This feature is not believed present in the applied prior art.

As discussed above, Sakurai discloses controllers independent from the footswitch unit that simply select devices to be controlled. The remote controllers 9a, 9b of Sakurai are not disposed in the receiver unit for controlling the selected devices that are separate from the foot-operated

control console. The additional prior art is not believed to disclose this two-way communication arrangement. Therefore, Claim 49 is believed allowable over the applied prior art.

Claim 28 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin, King and Yaroch.

As discussed above, King and Yaroch do not include the features of Claim 27, for which Wang is relied upon. Therefore, Claim 28 is believed allowable in its present form.

Further, Claim 28 recites a wireless transmitter to transmit "an apparatus identifier in association with the control signals, the apparatus identifier for uniquely associating the apparatus with the receiver unit". This feature is not believed present in the applied prior art.

As discussed above, Yaroch is directed to an RF transmitter for controlling the audio system of an automobile and a separate RF transmitter for controlling the power locks. These teachings are not believed applicable to the claimed invention. Further the transmitters of Yaroch each control a separate device/system in all instances. Therefore, Claim 28 is believed allowable.

Claim 30 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Linhares.

As discussed above, Dustin and King do not include the features of parent Claim 30, for which Wang is relied upon. Therefore, Claim 30 is believed allowable.

Claim 37 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Dowling, U.S. Patent No. 7 228 190. Claim 37 is believed allowable for the reasons set forth above with respect to parent Claim 31.

Claim 39 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Stephens. Dustin, King and Stephens do not include the features of Claim 27, for which Wang is relied

upon. Therefore, Claim 39 is believed allowable over the applied prior art in its present form.

Claim 43 stands rejected under 35 USC §103 as being unpatentable over Sakurai in view of Dustin and King, and further in view of Iwamatsu, U.S. Patent No. 5 046 107.

Claim 43 is believed allowable for the reasons set forth above with respect to parent Claim 40. Further, the features of Wang relied upon for the rejection of Claim 40 are not present in Dustin, King or Iwamatsu. Therefore, Claim 43 is believed allowable in its present form.

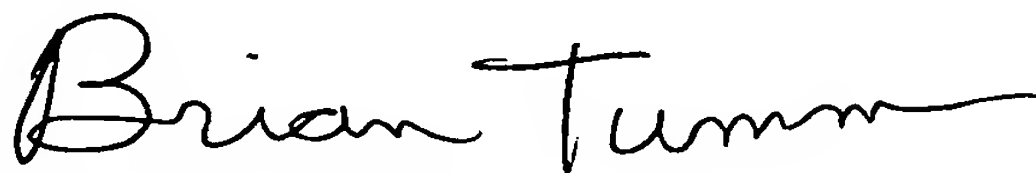
Claim 46 stands rejected as being unpatentable over Sakurai in view of Dustin and King, and further in view of Right and Yaroch.

Dustin, King, Right and Yaroch do not disclose or suggest the features of Wang relied upon in the rejection of Claim 40. Therefore, Claim 46 is believed allowable in its present form.

Further, Claim 46 recites that "the console has a unique console identifier so that the receiver unit is capable of identifying more than the one said control console". The language recited in Claim 46 generally corresponds to the language recited in Claim 20. Therefore, Claim 46 is also believed allowable for the reasons discussed above with respect to Claim 20.

In view of the above, the instant application is believed to be in condition for allowance, and action toward that end is respectfully solicited.

Respectfully submitted,

A handwritten signature in cursive script, reading "Brian Tumm", written in dark ink.

Brian R. Tumm

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